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Dan Smoot Report

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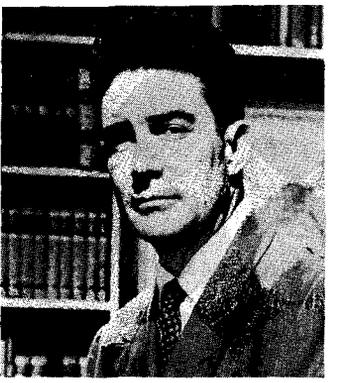

DAN SMOOT

ABOLISH THE ANTITRUST LAWS

In 1961, President Kennedy organized the President's Club. Membership is open to anyone who contributes $1000 a year to the Democrat Party. The Club has been a good money raiser for the party, especially since 1964 when word was circulated that members would have easy access to President Johnson, and enjoy special advantages in their dealings with the government.[1]

On January 31, 1962 — shortly after the President's Club was formed — Kennedy's Department of Justice filed a suit against Anheuser-Busch Company (largest beer firm in the United States), charging that Anheuser-Busch's purchase of the Rahr Malting Company violated the Clayton Antitrust Act; but the Department never prosecuted the suit.

On May 24, 1966, four executives associated with Anheuser-Busch (and their wives) contributed a total of $10,000 to the President's Club. None of them had previously contributed. On June 17, 1966, the Department of Justice dismissed the antitrust suit against Anheuser-Busch. On July 12, 1966, Donald F. Turner (Assistant Attorney General in charge of the Antitrust Division), Clifton Carter (acting treasurer of the Democrat National Committee), Vice President Hubert Humphrey, and other important Democrats were guests of Augustus A. Busch, Jr. (President of Anheuser-Busch) at an all-star baseball game in St. Louis. They were flown from Washington to St. Louis and back in a plane owned by Anheuser-Busch Company.[1]

U. S. Representative H. R. Gross (Iowa Republican) said:

"This Busch league affair is another example of the decline in moral leadership by the party in power."[2]

Government officials and other spokesmen for the Democrat Party denied that bribery or favoritism was involved. There may not have been a specific deal for the Johnson administration to drop the antitrust suit against Anheuser-Busch, in return for contributions to the Democrat Party;

THE DAN SMOOT REPORT is published weekly by The Dan Smoot Report, Inc., Box 9538, Dallas, Texas 75214 (office at 6441 Gaston Ave.). Subscriptions: $18.00 for 2 years; $10.00, 1 year; $6.00, 6 months; first class, $12.50 a year; airmail, $14.50. Dan Smoot was born in Missouri, reared in Texas. With BA and MA degrees from SMU (1938 and 1940), he joined the Harvard faculty (1941) as a Teaching Fellow, doing graduate work in American civilization. From 1942 to 1951, he was an FBI agent; from 1951 to 1955, a commentator on national radio and television. In 1955, he started his present independent, free-enterprise business: publishing this REPORT and abbreviating it each week for radio and TV broadcasts available for commercial sponsorship by business firms.

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but political corruption is inherent in the situation. The federal government has arrogated to itself so much power that bribery, intimidation, and special favoritism are implicit in every decision or activity involving government controls — whether or not special agreements or deals are made.

Many businessmen tell me they think my kind of news-commentary is desperately needed on radio and television, but say they fear that sponsoring my broadcasts would bring them harassment by the Internal Revenue Service and other agencies of government.

Managers of many broadcast stations have refused to carry my broadcasts when I have found courageous business sponsors, because the stations fear reprisals by the Federal Communications Commission. Many are harassed by the FCC because they do carry broadcasts strongly critical of government policies.

Many conservative businessmen give their customers, suppliers, and employees subscriptions to liberal publications and charge the cost to advertising; but they are afraid that giving subscriptions to my *Report* would incur the wrath of bureaucrats.

Editors of important newspapers have told me that they tone down their criticism of the administration in power, to avoid direct reprisals against the newspapers, indirect reprisals in the form of canceled government contracts or the closing of government facilities in communities served by the newspapers.

I know taxpayers who have accepted, without a fight, grossly unfair rulings against them by the Internal Revenue Service, because they feared that making a fight would irritate the bureaucracy and cost them, in the end, more than the unfair rulings cost.

I have received hundreds of letters from people of little financial means and no special influence who claim to have suffered egregious abuse because they publicly criticized the policies of government. Most of these stories have the ring of truth. I know wealthy men who make substantial contributions to both political parties (and to leading rivals for an important political office) as "insurance" — insurance that they will have friends in Washington, regardless of who wins elections.

Recently, *U.S. News & World Report* interviewed several leading American businessmen about their attitude toward the Johnson administration. Comments of dreadful import were made by a few who were afraid to permit use of their names.

The president of one of the nation's biggest building-supply firms said:

"Leave me out of this. The building industry is in serious trouble. We need infusions of money to help building — federal money . . . . You know the power of Government in managing the economy. Please don't name me or my company in saying anything about Government policies.[3]

An executive of a Pittsburgh steel firm said:

"The facts of life are that we have just got to be on good terms with the Great White Father. He swings too much weight for it to be any other way . . . ."[3]

Such comments by powerful business leaders help explain my assertion that political corruption was inherent in the situation involving Anheuser-Busch and the Department of Justice. I think the brewery officials did what many other businessmen feel compelled to do: they curried favor with the reigning bureaucrats, knowing that the all-powerful bureaucracy can richly reward or painfully punish.

Note some more facts. The antitrust suit filed by the Department of Justice in January, 1962, alleged that Anheuser-Busch's purchase of the Rahr Malting Company would "lessen competition" in the beer business and give Anheuser-Busch an advantage over smaller breweries that depend on Rahr Malting as a source of supply for malt. The Department of Justice trial attorney who would have handled the suit was opposed to dropping it. He said the brewery's acquisition of an important malting company was part of a trend by major breweries to acquire control of

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malt supplies, and that the trend could lead to a price-fixing monopoly; but Donald Turner said that if small breweries ever face the threat of such a monopoly, they can end the threat by joining together to set up their own malting plants.[2]

There — from the head of the Antitrust Division of the Department of Justice — is potent argument that we ought not to have any federal antitrust laws. If the federal government were prohibited from unconstitutional meddling in the market place, no combination of private interests could ever create a lasting monopoly damaging to the public.

In a free economy (free of government subsidies, needless regulations, favoritism, and punitive taxation), the relentless, irresistible forces of competition (for jobs, workers, customers) would keep consumer prices low, wages high, quality of goods and services up, and production levels at the maximum.

Our antitrust laws do not promote a free economy; they make economic freedom impossible. They do not eliminate monopolies and combines that restrain free trade; they restrict free trade by encouraging government-controlled monopolies.

The purpose of the Sherman Antitrust Act was to prohibit financial or business combines from monopolizing an industry and abusing the public. At the time of its adoption (July 2, 1890), it was aimed primarily at railroads (and great financial combines made possible by profits from railroad operations), some of which had become coercive monopolies. They bribed or intimidated government officials, charged outrageous rates, paid low wages, rendered inferior service, discriminated against certain industries or geographical areas, favored others.

Such an unsavory condition could never have developed in an economy free of government meddling. In a free economy, a private organization or combine can monopolize an industry if it serves the public so well that there is no need for competitors. When it begins to abuse its monopoly — by overcharging, reducing quality, giving inferior service — it will begin to lose its monopoly, because the public will protect itself, without governmental intervention, by organizing and patronizing rival business firms.

The offending railroads and trusts were built with government subsidies, and they operated under laws (both federal and state) which gave them special privileges. Hence, the evils which made the Sherman Act seem necessary were not products of the free enterprise system. They were created by government.

Moreover — almost by the time the Sherman Act became operative — competitive forms of transportation and rival accumulations of private wealth had begun to break the stranglehold of the government-created monopolies. Consequently, for 20 years after the Sherman Act was passed, it did little more than provide a vote-getting issue for politicians.

In 1912, presidential candidate Woodrow Wilson promised to "plug the loopholes in the Sherman Act." The result was the Federal Trade Commission Act and the Clayton Act, both adopted in 1914.

The Federal Trade Commission Act created the Federal Trade Commission, composed of five appointed members who have vast powers to establish and enforce rules for what they deem to be fair competition in business activity. The Clayton Act reflected the growing political power of unions. Under the Sherman Act, certain union practices had been declared monopolistic. The Clayton Act exempted unions from federal antitrust laws.

Since 1914, Congress has granted many other special exemptions. Export businesses, farmers' cooperatives, insurance, railroads, shipping, fishing, communications, electric power: these are some of the interests which, like labor unions, enjoy special exemption from federal antitrust laws.

In 1933, Congress passed Franklin D. Roosevelt's National Industrial Recovery Act, creating

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the National Recovery Administration (NRA). One purpose of this Act was to force all major American businesses into gigantic cartels, or trusts, under government control. It, in other words, directly contradicted the announced purposes of antitrust laws. Consequently, President Roosevelt suspended enforcement of antitrust laws. In 1935, the Supreme Court declared the Act unconstitutional. Roosevelt — angered by business opposition to his efforts to force all businesses into government-controlled trusts — retaliated with ruthless prosecutions of business under the antitrust laws he had previously suspended; and he demanded more laws.

The major antitrust laws passed during new deal days was the Robinson-Patman Act of 1936.

Though very broad in scope, the Robinson-Patman Act was aimed primarily at chain stores. It requires uniform prices on certain merchandise and outlaws the sale of goods at prices which government administrators consider too low. Thus, the Robinson-Patman Act requires price-fixing practices which previous antitrust laws prohibit, making it practically impossible for any business to operate in interstate commerce without violating *some* federal antitrust law.

Federal laws controlling interstate commerce are so numerous, complicated, and contradictory that courts cannot enforce them. So, Congress has created hundreds of administrative agencies to police the bewildering complex of statutes governing business. The Interstate Commerce Commission, the Federal Trade Commission, the Federal Communications Commission are among the best known of such agencies. They have the power of life or death over vital industries. They often use the power in response to the political predilections of their appointed members, without regard to the Constitution or the due processes of law.

In recent years, the federal government's "trust-busting" activities have consisted, almost exclusively, of preventing business mergers which do not have official sanction.

The federal government has no constitutional authority to decide on the merits of business mergers — to determine that some are good, others bad. The government has no valid authority to prohibit a business firm from buying out another, any more than it has authority to prohibit a dairy farmer from buying his neighbor's cows.

During 1964, there were about 1800 business mergers in the United States; but the federal government took action against only 21. These facts indicate that the laws are not applied impartially. They are enforced, ignored, or compromised, according to the whims of officialdom.(4) The effect is not, as advertised, the breaking up of harmful business monopolies, but government domination of all business. The end result will be a government-controlled system of giant cartels, comparable to the government-business machine which was the chief characteristic of Hitler's national socialist dictatorship in Germany prior to World War II.

Congress should repeal all antitrust laws. This would be a major step toward reestablishing economic freedom in the United States.

SUGGESTION: By distributing this *Report*, help create the public opinion necessary for repeal of stifling, corrupting antitrust laws. Give copies to businessmen. Some who have never identified themselves with the cause of freedom might be moved to join you in the battle to save our Republic.

FOOTNOTES

(1) *Congressional Record* (daily), July 14, 1966, pp. 15038-9

(2) UPI story from Washington, *The Dallas Times Herald*, July 17, 1966, p. A5

(3) "End In Sight For LBJ's 'Honeymoon' With Business?", *U.S. News & World Report*, August 22, 1966, pp. 32-5

(4) "Can You Merge? Now Even Government Isn't Sure," *U.S. News & World Report*, May 24, 1965, pp. 102-3

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